

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 420 be amended to read as follows:

- 1 Page 1, delete lines 1 through 17.
- 2 Delete pages 2 through 4.
- 3 Page 5, delete lines 1 through 19.
- 4 Page 5, line 23, delete "Development" and insert **"Portfolio**
- 5 **Standard Program"**.
- 6 Page 5, between lines 23 and 24, begin a new paragraph and insert:
- 7 **"Sec. 1. As used in this chapter, "base year" means the calendar**
- 8 **year ending December 31, 2008."**
- 9 Page 5, line 24, delete "1." and insert **"2."**
- 10 Page 5, delete lines 33 through 42, begin a new paragraph and
- 11 insert:
- 12 **"Sec. 3. As used in this chapter, "participating electricity**
- 13 **supplier" refers to an electricity supplier that has been approved**
- 14 **by the commission under section 11 of this chapter to participate**
- 15 **in the program.**
- 16 **Sec. 4. As used in this chapter, "program" refers to the Indiana**
- 17 **renewable energy portfolio standard program established by the**
- 18 **commission under section 10 of this chapter.**
- 19 **Sec. 5. As used in this chapter, "regional transmission**
- 20 **organization", with respect to an electricity supplier, refers to the**
- 21 **regional transmission organization approved by the Federal**
- 22 **Energy Regulatory Commission for the control area that includes**
- 23 **the electricity supplier's assigned service area (as defined in**
- 24 **IC 8-1-2.3-2).**

1       Sec. 6. As used in this chapter, "renewable energy" means  
2 electricity that is derived from a renewable energy resource.

3       Sec. 7. As used in this chapter, "renewable energy credit", or  
4 "REC", means an interest that:

5       (1) represents:

6           (A) one (1) megawatt hour of renewable energy that  
7 satisfies the conditions set forth in section 12(b)(2) of this  
8 chapter, if the REC represents renewable energy that is

9 not generated or purchased from a facility in Indiana; or

10          (B) one and twenty-five hundredths (1.25) megawatt hours  
11 of renewable energy that satisfies the conditions set forth  
12 in section 12(b)(2) of this chapter, if the REC represents  
13 renewable energy that is generated or purchased from a  
14 facility in Indiana;

15       (2) is quantifiable and transferrable; and

16       (3) is possessed by not more than one (1) entity at a time."

17       Page 6, delete lines 1 through 5.

18       Page 6, line 6, delete "4." and insert "8."

19       Page 6, line 6, delete "resources"" and insert "resource"".

20       Page 6, line 7, delete "includes the following sources or processes:"  
21 and insert "**means any of the following sources or programs for the**  
22 **production of electricity:**".

23       Page 6, line 11, delete "Wind, including wind energy battery storage  
24 systems." and insert "**Wind.**".

25       Page 6, line 13, delete "Clean coal technology." and insert  
26 "**Geothermal energy.**".

27       Page 6, delete lines 17 through 19.

28       Page 6, line 20, delete "(9)" and insert "(7)".

29       Page 6, between lines 22 and 23, begin a new line block indented  
30 and insert:

31       **"(8) Agricultural crop waste.**

32       **(9) Sawmill or timber waste, other than waste derived from**  
33 **commercial grade timber.**

34       **(10) Fuel cells that directly convert chemical energy in a**  
35 **hydrogen rich fuel into electricity.**

36       **(11) A clean coal and energy project described in**  
37 **IC 8-1-8.8-2(1)(D).**

38       **(12) Carbon capture and storage projects.**

39       **(13) Nuclear energy.**

40       **(14) Electricity that is:**

41           (A) generated from a customer owned distributed  
42 generation facility that is interconnected to the electricity  
43 supplier's distribution system in accordance with the  
44 commission's interconnection standards set forth in 170  
45 IAC 4-4.3; and

46           (B) supplied back to the electricity supplier for use in  
47 meeting the electricity supplier's electricity demand

1 requirements.

2 (15) Coal bed methane."

3 Page 6, line 23, delete "Except as provided in subsection (a)(7), the"  
4 and insert "The".

5 Page 6, between lines 32 and 33, begin a new line block indented  
6 and insert:

7 "(7) Tires."

8 Page 6, delete lines 33 through 42, begin a new paragraph and  
9 insert:

10 "Sec. 9. As used in this chapter, "RPS goal" refers to a goal set  
11 forth in section 12(a) of this chapter that a participating electricity  
12 supplier must achieve during a specified period during the  
13 program to qualify for one (1) or more of the financial incentives  
14 described in section 13 of this chapter.

15 Sec. 10. (a) The commission shall adopt rules under IC 4-22-2 to  
16 establish the Indiana renewable energy portfolio standard  
17 program. The program established under this section must be a  
18 voluntary program that provides incentives to participating  
19 electricity suppliers that undertake to supply specified percentages  
20 of the total electricity supplied to their Indiana retail electric  
21 customers from renewable energy.

22 (b) The rules adopted by the commission under this section to  
23 establish the program must:

24 (1) incorporate:

25 (A) the RPS goals set forth in section 12(a) of this chapter;

26 (B) methods for measuring and evaluating a participating  
27 electricity supplier's compliance with the RPS goals set  
28 forth in section 12(a) of this chapter;

29 (C) the financial incentives set forth in section 13 of this  
30 chapter; and

31 (D) the reporting requirements set forth in section 14 of  
32 this chapter;

33 (2) take effect not later than January 1, 2010; and

34 (3) be consistent with this chapter.

35 (c) Upon the effective date of the rules adopted by the  
36 commission under this section, an electricity supplier may apply to  
37 the commission under section 11 of this chapter for approval to  
38 participate in the program.

39 Sec. 11. (a) An electricity supplier that seeks to participate in the  
40 program established by the commission under section 10 of this  
41 chapter must apply to the commission:

42 (1) in the manner and on a form prescribed by the  
43 commission; and

44 (2) not later than a date specified by the commission in the  
45 rules adopted under section 10 of this chapter;

46 for approval to participate in the program.

47 (b) Upon receiving an application under subsection (a), the

commission promptly shall review the application for completeness. The commission may request additional information the commission considers necessary to aid in the commission's review.

(c) The commission shall approve an application submitted under subsection (a) if the commission determines that:

(1) the application is complete and accurate; and

(2) the electricity supplier submitting the application has demonstrated that the electricity supplier has a reasonable expectation of supplying renewable energy to its Indiana retail electric customers during the calendar year ending December 31, 2023, in an amount equal to at least twelve percent (12%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year, as set forth in section 12(a)(3) of this chapter.

Sec. 12. (a) Subject to subsection (b), to qualify for the financial incentives set forth in section 13 of this chapter, a participating electricity supplier must supply renewable energy to the participating electricity supplier's Indiana retail electric customers according to the following RPS goals:

(1) RPS Goal I: In the calendar year ending December 31, 2011, at least four percent (4%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

(2) RPS Goal II: For the five (5) calendar years beginning January 1, 2012, and ending December 31, 2016, an average of at least four percent (4%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year. In the calendar year ending December 31, 2017, at least seven percent (7%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

(3) RPS Goal III: For the five (5) calendar years beginning January 1, 2018, and ending December 31, 2022, an average of at least seven percent (7%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year. In the calendar year ending December 31, 2023, at least twelve percent (12%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

For purposes of this subsection, electricity is measured in megawatt hours. However, in determining whether a participating electricity supplier has met an RPS goal set forth in this subsection, the commission shall multiply each megawatt hour of renewable

energy that is generated or purchased from a facility in Indiana by a factor of one and twenty-five hundredths (1.25).

(b) In determining whether a participating electricity supplier has met a particular RPS goal set forth in subsection (a), the commission shall consider only renewable energy that:

(1) is supplied by the participating electricity supplier to the participating electricity supplier's Indiana retail electric customers during the RPS goal period under consideration; and

(2) meets one (1) of the following conditions:

(A) Is generated or purchased in Indiana or in a control area that is part of the regional transmission organization of which the participating electricity supplier is a member.

(B) Is generated from a facility that:

(i) is not located in Indiana or in a control area that is part of the regional transmission organization of which the participating electricity supplier is a member; and

(ii) is located in a control area that is part of another regional transmission organization and that is adjacent to a control area that is part of the regional transmission organization of which the participating electricity supplier is a member;

if the participating electricity supplier owns at least a forty-nine percent (49%) interest in the facility.

(c) To the extent feasible, a participating electricity supplier shall apply toward meeting the RPS goals set forth in subsection (a) renewable energy that is:

(1) generated from facilities that are:

(A) owned;

(B) operated; or

(C) in the process of being constructed;

by the participating electricity supplier on January 1, 2009; or

(2) purchased under a contract at no additional cost to the participating electricity supplier's Indiana retail electric customers.

(d) A participating electricity supplier may own or purchase one (1) or more RECs to meet any of the RPS goals set forth in subsection (a) as long as the renewable energy represented by the REC meets one (1) of the conditions set forth in subsection (b)(2).

(e) A participating electricity supplier may apply:

(1) amounts of renewable energy supplied by the participating electricity supplier to its Indiana retail electric customers during a particular RPS goal period; or

(2) RECs acquired by the participating electricity supplier during a particular RPS goal period;

that exceed the requirements for the particular RPS goal period to

the immediately succeeding RPS goal period.

**Sec. 13. (a) The commission shall establish the following financial incentives for participating electricity suppliers:**

**(1) A shareholder incentive consisting of the authorization of an increased overall rate of return on equity, not to exceed fifty (50) basis points over a participating electricity supplier's authorized rate of return, whenever the participating electricity supplier attains an RPS goal set forth in section 12(a) of this chapter. The number of additional basis points authorized by the commission under this subdivision may:**

**(A) be different for each of the RPS goal periods identified in section 12(a) of this chapter, as the commission determines is appropriate; and**

**(B) in the case of a particular participating electricity supplier, be based, in part, on the extent to which the participating electricity supplier has attempted to meet a particular RPS goal in the manner specified in section 12(c) of this chapter.**

**The additional basis points authorized by the commission under this subdivision for each RPS goal period are not cumulative. In determining a participating electricity supplier's authorized rate of return to which additional basis points may be added upon the participating electricity supplier's achievement of a particular RPS goal, the commission shall not include as part of the authorized rate of return any additional basis points awarded to the participating electricity supplier for having achieved the immediately preceding RPS goal.**

**(2) The recovery, by means of a periodic rate adjustment mechanism, of all reasonable and necessary program costs incurred by a participating electricity supplier in:**

**(A) constructing, operating, or maintaining facilities that generate renewable energy that:**

**(i) is used by the participating electricity supplier in its efforts to meet an RPS goal set forth in section 12(a) of this chapter; and**

**(ii) meets the requirements set forth in section 12(b) of this chapter; or**

**(B) otherwise generating or purchasing renewable energy that:**

**(i) is used by the participating electricity supplier in its efforts to meet an RPS goal set forth in section 12(a) of this chapter; and**

**(ii) meets the requirements set forth in section 12(b) of this chapter.**

**For purposes of this subdivision, "program costs" includes administrative costs, ancillary costs, capacity costs, costs**

associated with RECs, capital costs, depreciation costs, tax costs, and financing costs incurred in connection with an activity described in clause (A) or (B).

(b) A participating electricity supplier that seeks one (1) or more incentives established by the commission under subsection (a) must apply to the commission:

(1) in the manner and on a form prescribed by the commission; and

(2) not later than any dates specified by the commission in rules adopted under section 10 of this chapter;

for approval for the incentives sought.

(c) The commission promptly shall review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in the commission's review.

(d) The commission shall, after notice and hearing, issue a determination of a participating electricity supplier's eligibility for the financial incentives sought. The commission shall issue a determination under this subsection not later than one hundred twenty (120) days after the date of the application, unless the commission finds that the applicant has not cooperated fully in the proceeding.

(e) A shareholder incentive described in subsection (a)(1) continues in effect until:

(1) a time or upon an event as specified in the commission's order approving the shareholder incentive; or

(2) the commission issues a new order authorizing the participating electricity supplier to receive a shareholder incentive for meeting the next RPS program goal;

whichever occurs first, if the participating electricity supplier continues to comply with the measurement and evaluation procedures established by the commission under section 10(b)(1)(B) of this chapter.

(f) A financial incentive described in subsection (a)(2) continues in effect until:

(1) the participating electricity supplier has recovered the program costs for which the periodic rate adjustment mechanism was allowed; or

(2) another time or upon another event as specified in the commission's order approving the periodic rate adjustment mechanism;

provided that the participating electricity supplier continues to comply with the measurement and evaluation procedures established by the commission under section 10(b)(1)(B) of this chapter.

Sec. 14. (a) Subject to subsection (c), beginning in 2012, each participating electricity supplier shall report to the commission not

later than March 1 of each year on the following:

(1) The participating electricity supplier's efforts, if any, during the most recently ended calendar year to meet the RPS goal applicable to the most recently ended calendar year.

(2) The total amount of renewable energy supplied to the participating electricity supplier's Indiana retail electric customers during the most recently ended calendar year, including a breakdown of the following:

(A) The amount of renewable energy generated by facilities owned or operated by the participating electricity supplier. The participating electricity supplier shall identify each facility by:

(i) name and location;

(ii) total generating capacity;

(iii) total amount of electricity generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers; and

(iv) total amount of renewable energy generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers.

(B) The amount of renewable energy purchased from other suppliers of renewable energy. The participating electricity supplier shall identify:

(i) each supplier from whom renewable energy was purchased;

(ii) the amount of renewable energy purchased from each supplier;

(iii) the price paid by the participating electricity supplier for the renewable energy purchased from each supplier; and

(iv) to the extent known, the name and location of each facility at which the renewable energy purchased from each supplier was generated.

(3) The number of RECs purchased by the participating electricity supplier during the most recently ended calendar year. The participating electricity supplier shall identify:

(A) each person from whom one (1) or more RECS was purchased;

(B) the price paid to each person identified in clause (A) for the RECs purchased;

(C) the number of RECs applied, if any, during the most recently ended calendar year to meet the RPS goal applicable to the most recently ended calendar year; and



(D) the number of RECs, if any, that the participating electricity supplier plans to carry over to the next succeeding RPS goal period, as permitted by section 12(e) of this chapter.

(4) The participating electricity supplier's plans for meeting the RPS goal applicable to the calendar year in which the report is submitted.

(5) Advances in renewable energy technology that affect activities described in subdivisions (1) and (4).

(6) Any other information that the commission prescribes in rules adopted under IC 4-22-2.

For purposes of this subsection, amounts of renewable energy and electricity shall be reported in megawatt hours. A participating electricity supplier's duty to submit a report under this subsection terminates after the participating electricity supplier has submitted the report that applies to the calendar year ending December 31, 2023.

(b) Subject to subsection (c), beginning in 2012, the commission's annual report to the regulatory flexibility committee under IC 8-1-2.5-9(b) must include a summary of the information provided by participating electricity suppliers under subsection (a) with respect to the most recently ended calendar year. The commission's duty to include the information specified in this subsection in its annual report to the regulatory flexibility committee terminates after the commission has submitted the information that applies to the calendar year ending December 31, 2023.

(c) This section does not empower the commission to require a participating electricity supplier to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Notwithstanding IC 8-1-37-10, as added by this act, the commission shall adopt rules to establish the Indiana renewable energy portfolio standard program described in IC 8-1-37, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than December 1, 2009. A rule adopted under this SECTION expires on the earlier of:

(1) the date the rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36; or

(2) January 1, 2011.

(c) This SECTION expires January 1, 2011."

- 1 Delete pages 7 through 9.
- 2 Page 10, delete lines 1 through 38.
- 3 Renumber all SECTIONS consecutively.  
(Reference is to ESB 420 as printed April 10, 2009.)

---

Representative Koch